

## **Remarks**

### **I. Introduction**

Claims 117-136 will be pending in this Application. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

### **II. 35 U.S.C. § 103(a)**

The pending claims are rejected as obvious over various combinations of U.S. Patent No. 4,409,453 to Smith, U.S. Patent No. 4,737,373 to Fournery, and U.S. Patent No. 5,166,487 to Hurley. Applicants respectfully traverse these rejections and request reconsideration and withdrawal thereof.

#### **1. Position of the gas discharge plates**

Without acquiescing to any of the rejections presented in the Action or the combinability of the cited references, but in line with the Examiner's suggestion in ¶11 of the Action and in the interest of advancing the prosecution of this application, Applicants have amended claims 117, 130 and 133 to recite that the discharge plates are positioned alongside sides of the oven cavity, and specifically that they are "positioned alongside opposite left and right side walls of the cavity." Support for these amendments appears in the figures and accompanying descriptions.

As previously argued, the cited art fails to teach or suggest causing gas to enter a cooking chamber in downwardly convergent directions through apertures in gas discharge plates defining opposing left and right sides of the chamber such that the gas turbulently collides in close proximity to food in order to cook it. Devices of the

Smith and Forney patents, by contrast, disclose discharging gas from curved top and bottom walls only--*not* from any side walls. Moreover, gas from the upper nozzles in the Fourney patent is *not* oriented so as to collide in close proximity to the food product, and the Hurley patent does not disclose introducing gas in downwardly converging directions.

## **2. Non-combinability of the cited art**

Applicants also respectfully submit that the outstanding Office Action appears to fail to consider the previously-submitted arguments regarding the proper combinability of the cited references. To the extent that the Action maintains rejections over the currently-cited art, Applicants respectfully request that the below (previously-submitted) arguments be addressed:

There is not a legitimate rationale for combining disclosures of the Smith and Forney patents as suggested. The oven of the Smith patent uses vertical jets of columnated “impingement” air to cook food. Clear from the description of the jets is that they remain *undisturbed* prior to impact with the food for maximum effectiveness--even to the extent of spacing the nozzles sufficiently so that return air does not pass through the jets and disturb them. See, e.g., Smith, col. 4, ll. 37-43; col. 8, ll. 12-24. The Smith patent additionally emphasizes the discrete nature of the jets as they impinge on the food surface to produce alternately higher and lower pressure areas on the surface for rapid heat transfer and moisture removal. Mounting nozzles on the side walls of the oven of the Smith patent as suggested would create laterally-moving streams of air that would *interfere with* the columnated jets of air, contrary to

the express teachings of that patent. It is well-settled that a proposed modification cannot change the principle operation of a reference or prevent a reference from working as intended, rendering it unsatisfactory for its intended purpose. See e.g., MPEP 2143.01.

### **CONCLUSION**

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, she is invited to contact the undersigned.

Respectfully submitted,

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